

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARC BRAGG, Esq., an individual,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	Case No. 06-4925
v.	:	
	:	
LINDEN RESEARCH, INC., a corporation,	:	
and PHILIP ROSEDALE, an individual,	:	
	:	
Defendant.	:	
	:	

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION
FOR LEAVE TO FILE SUPPLEMENTAL BRIEFS**

Defendants Linden Research, Inc. and Philip Rosedale oppose Plaintiff's Motion For Leave to File Supplemental Briefs Related to Defendants' Motion to Compel Arbitration and Mr. Rosedale's Motion to Dismiss for Lack of Personal Jurisdiction. For the following reasons, Plaintiff's Motion should be denied.

1. The Court needs to put an end to Plaintiff's waffling – and inconsistent litigation positions. At oral argument on February 5, 2007, Plaintiff's counsel represented to the Court that his client was withdrawing all of his damages claims and that he wished to be granted leave to file an amended complaint reflecting that waiver. The Court invited Plaintiff to file his proposed amended complaint. Plaintiff has failed to provide the promised proposed pleading. Instead, Plaintiff seeks to file more briefs, apparently related to his original Complaint. Plaintiff's inconsistent conduct should no longer be countenanced.

2. The Court has been provided with substantial, thorough briefing with respect to both of Defendants' motions and heard more than two hours of oral argument earlier this week. There is no showing in Plaintiff's application as to why any further briefing is necessary or will

be helpful, and the request itself is inconsistent with Plaintiff's position that he cannot afford arbitration.

3. The Court generously allowed Plaintiff to submit supplemental materials (i.e., the Linden Lab press releases) after oral argument that should have been submitted with Plaintiff's response brief and Plaintiff has now done so. Plaintiff should no longer be allowed to litigate through *seriatim* filings and this matter should be considered submitted.

4. For these reasons, Plaintiff's Motion should be denied and Plaintiff should be deemed to have waived any proposed amendment to the Complaint for the purposes of the motions to compel arbitration and motion to dismiss for lack of jurisdiction.

Respectfully submitted,

/s Andrew J. Soven (/AS 955)
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Dated: February 8, 2007

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and PHILIP ROSEDALE, an individual,	:	
	:	
Defendants.	:	
	:	

ORDER

AND NOW, this __ day of _____, 2007, upon consideration of Plaintiff's Motion for Leave to File Supplemental Briefs, and the opposition of Defendants thereto, it is hereby **ORDERED** and **DECREED** that the Motion is **DENIED**.

It is **FURTHER ORDERED** that Plaintiff shall not be permitted to seek leave to file an amended complaint in response to Defendants' motions to compel arbitration and motion to dismiss for lack of personal jurisdiction.

ROBRENO, J.

CERTIFICATE OF SERVICE

I, Andrew J. Soven, hereby certify that Defendants Linden Research, Inc. and Philip Rosedale's Response in Opposition to Plaintiff's Motion for Leave to File Supplemental Briefs has been filed electronically this 8th day of February, 2007, and is available for viewing and downloading from the federal court's Electronic Case Files system. A copy of the foregoing has also been served today by ECF upon the following counsel:

Jason A. Archinaco, Esquire
White and Williams LLP
The Frick Building
437 Grant Street, Suite 1001
Pittsburgh, PA 15219

“s”/ Andrew J. Soven